

**UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
Harrisonburg Division**

IN RE:

MICHAEL WHITMAN DECKER
Debtor.

**Case No. 17-50297
Chapter 7**

KILMER & ASSOCIATES, CPA, PC,

Plaintiff,

v.

A. P. No. 17-05012

MICHAEL WHITMAN DECKER,

and

W. STEPHEN SCOTT, Chapter 7 Trustee,

Defendants.

JOINT STIPULATION OF FACTS

COMES NOW Plaintiff, Kilmer & Associates, CPA, PC, and Debtor / Defendant, Michael Whitman Decker, by counsel, and enter into this Pretrial Joint Stipulation of Fact:

1. Jurisdiction is based upon Bankruptcy Code §727(a)(2) and (3), and Bankruptcy Rules 4004, 4005, and 4007, and this Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334 and 157(a). This is a “core proceeding,” and this Court has jurisdiction properly founded upon 28 U.S.C. §§ 157(b)(2)(A) and (b)(2)(O).

2. Michael Whitman Decker (“Mr. Decker”) filed a voluntary petition for relief pursuant to Chapter 7 of the Bankruptcy Code on March 30, 2017, as Case No. **17-50297** in the United States Bankruptcy Court for the Western District of Virginia, Harrisonburg Division.

3. Kilmer & Associates (“Kilmer”) is a Virginia company with its principal place of business in Winchester, Virginia and is a Creditor of Mr. Decker as more particularly described below.

4. Kilmer has a claim in this proceeding for \$213,258.46 with interest at 12% from February 1, 2015, together with attorney fees of \$96,937 and arbitration costs of \$16,719.

5. Mr. Decker owns his house at 305 Branner Avenue, Winchester, Virginia as tenant by the entireties with his wife, Mary E. Hurley, subject to a mortgage with SunTrust Mortgage, incurred December 22, 2011, valued at \$275,300.

6. The balance on the mortgage with SunTrust Mortgage as of March 30, 2017 was \$82,351.

7. Mr. Decker made principal payments on the SunTrust Mortgage of \$5,700 on November 18, 2016, another \$5,000 on November 28, 2016, and another \$5,000 on December 5, 2016,

8. Mr. Decker’s 2016 Income Tax Return shows sales of \$10,137 of “short-term capital assets” and another \$18,940 in long-term capital assets on November 10-17, 2016.

9. On November 30, 2016, Michael Decker withdrew \$17,000 from his checking account, which he used to make an additional principal payment to SunTrust Mortgage of \$17,000.

10. Mr. Decker made contributions to his IRA and Pension Accounts as follows:

a. \$8,500 to Edward Jones (Employer Retirement Plan) on Monday, November 14, 2016;

b. \$5,500 to Vanguard (Personal Individual Retirement Plan) on Tuesday, January 24, 2017

c. \$8,000 to Edward Jones (Employer Retirement Plan) on Tuesday, January 31, 2017

d. \$4,500 to Edward Jones (Employer Retirement Plan) on Tuesday, February 14, 2017

11. Mr. Decker contributed \$150 to his Health Savings Account in 2015.

12. Mr. Decker contributed \$3,350 to his Health Savings Account on Wednesday, January 25, 2017, for calendar year 2016.

13. Mr. Decker paid his attorney, Thomas Lawson, as follows:

Date	Check from Winchester Accounting to Thomas Lawson for Michael Decker's legal fees
January 5, 2016	Check # 5014 for \$9,529.89
February 9, 2016	Check # 5017 for \$3,275.86
March 1, 2016	Check # 5018 for \$7,729.90
April 4, 2016	Check # 5019 for \$11,243.42
May 11, 2016	Check # 5020 for \$8,755.09
June 1, 2016	Check # 5021 for \$6,689.38
July 26, 2016	Check # 5022 for \$12,750.04
August 5, 2016	Check # 5023 for \$8,555.26
September 13, 2016	Check # 5024 for \$20,597.12

14. Mr. Decker paid his attorney, Thomas Lawson, as follows:

Date	Check from Winchester Accounting to Thomas Lawson for Michael Decker's legal fees
October 5, 2016	Check # 5025 for \$31,226.53
November 16, 2016	Check # 101 for \$9,367.71
December 20, 2016	Check # 106 for \$8,435.74
January 22, 2017	Check # 111 for \$12,416.59

15. Mr. Decker paid the Court Reporting bills for the Arbitration Hearing to Court Reporters Casamo & Associates, in the amounts of \$1,051 on and \$2,431 on December 21, 2016.

16. In 2016, Mr. Decker's accounting firm, Winchester Accounting & Consulting, Inc. had \$385,482 in Gross Receipts.

Jointly submitted this 17th day of March, 2018.

SEEN AND AGREED TO:	SEEN AND AGREED TO:
<p>/s/ <u>William E. Shmidheiser</u> William E. Shmidheiser, III (VSB 19047) <i>Counsel for Plaintiff Kilmer & Associates, CPA, PC</i> of Lenhart Pettit 90 North Main Street, Suite 201 P. O. Box 1287 Harrisonburg, VA 22803 (540) 437-3137 (direct – Shmidheiser) wes@lplaw.com</p>	<p>/s/ <u>James P. Campbell</u> James P. Campbell, Esquire (VSB 25097) <i>Counsel for Debtor/Defendant Michael Whitman Decker</i> Campbell Flannery, PC 1602 Village Market Blvd., Ste 220 Leesburg, VA 20175 jcampbell@campbellflannery.com</p>

20562 / 001 / 672718.doc